IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.52144 of 2006
RAJ NARAYAN YADAV @ MUNNA @ RAJ NARAYAN
Versus
STATE OF BIHAR & ANR
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5 20.8.2008 Heard Mr. Viveka Nand Singh, learned counsel for the petitioner as also Mr. Raj Dular Sah, learned counsel for O.P. No. 2 and Mr. Jharkhandi Upadhaya, learned A.P.P. for the State.

The petitioner is aggrieved by and seek the quashing of order dated 1.8.2006 passed in Lalit Narayan Mithila University P.S. Case No. 107 of 2002, whereby the learned Chief Judicial Magistrate, Darbhanga, has taken cognizance of offence under sections 498A, 323, 379 I.P.C. and section 3 / 4 of the Dowry Prohibition Act.

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The grievance of the petitioner is that the taking of cognizance is barred by reason of section 468 Cr.P.C.

In the Full Bench decision of this court in the case of Ram Kripal Prasad Vs. State of Bihar (1985 PLJR 271) it has been held that the issue of limitation is a question which needs to be raised and determined at the earliest stage before the Trial Court, since the question of limitation is a matter for consideration, computation and adjudication by it alone and where such a plea is raised it ought to be adjudicated upon as a preliminary issue. It was also held that the disputed issue of limitation cannot be properly raised directly in the High Court for the quashing of the proceeding under Section 482 Cr.P.C.

In that view of the matter the petitioner is directed to approach

the Court below and take the plea of limitation and in the event of such a plea being raised the court below will decide the same as a preliminary issue and pass order in accordance with law.

With the aforesaid observations this application is disposed of.

Spd/- **(Abhijit Sinha, J.)**

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